

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**M.F., a minor, by and through his father, §
MICHAEL FISHER, and his mother, §
KATHERINE FISHER, §**

Plaintiff, §

v. §

**CARROLL INDEPENDENT §
SCHOOL DISTRICT, WHITNEY §
WHEELER, in her individual capacity §
and capacity as Principal of Durham §
Intermediate School, AND KIM RAY, §
in her individual capacity and capacity §
as Assistant Principal and Campus §
Behavior Coordinator of Durham §
Intermediate School, §**

Defendants. §

Civil Action No. 4:23-cv-01102-O

JURY TRIAL DEMANDED

**PLAINTIFF M.F.’S EMERGENCY MOTION TO COMPEL LIMITED EXPEDITED
DISCOVERY, OR, IN THE ALTERNATIVE, TO EXTEND THE TRO AND CONTINUE
THE PRELIMINARY-INJUNCTION HEARING TO
CONDUCT EXPEDITED DISCOVERY**

Plaintiff M.F., a minor, by and through his father, Michael Fisher, and his mother, Katherine Fisher (“Plaintiff”), by and through his undersigned counsel, respectfully submits this Emergency Motion to Compel Limited Expedited Discovery, or, In the Alternative, to Extend the TRO and Continue the Preliminary-Injunction Hearing to Conduct Expedited Discovery.

The grounds for this Motion are set forth in greater detail in Plaintiff’s accompanying Brief, which is being filed concurrently with this Motion. Plaintiff respectfully requests that the Court:

- Grant Plaintiff’s Motion;
- Compel Defendants to respond in full to Plaintiff’s requests for production;

- Or, in the alternative, extend the TRO (ECF No. 13) and continue the preliminary-injunction hearing (ECF No. 14) for a sufficient period of time to permit the requested expedited discovery to take place, which Plaintiff believes would be no more than two weeks.

Dated: November 10, 2023

Respectfully submitted,

/s/ Griffin S. Rubin

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served via ECF on all counsel of record on November 10, 2023.

/s/ Griffin S. Rubin

Griffin S. Rubin

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1(a)–(b), the undersigned hereby certifies the following as to each aspect of the relief requested:

Expedited Discovery to Defendants

On November 8, 2023, the undersigned transmitted to Thomas Fisher and Katie Pestcoe, then-counsel to Defendants, the three different requests for production to each Defendant, respectively. *See* APP.003; *see also* APP.004–.025. In the email, the undersigned asked whether Defendants would agree to the expedited discovery requests. *See* FED. R. CIV. P. 26(d)(1). The undersigned then called Thomas Fisher several times on November 8, 2023, seeking to speak regarding the requested expedited discovery given the impending hearing. Just prior to the close of business on November 8, 2023, Tim Davis emailed the undersigned to inform Plaintiff that his firm had been retained to represent Defendants in this action. Counsel for the parties set a meet-and-confer call for the next morning.

On November 9, 2023, the parties met and conferred via telephone regarding the expedited discovery requests. Conferring on Plaintiff’s behalf were Mazin Sbaiti and the undersigned, and conferring on Defendants’ behalf were Tim Davis and Allison Allman. Counsel for Defendants did not agree to respond to the expedited discovery requests, and Plaintiff therefore indicates Defendants’ opposition to the relief requested here.

Extending the TRO and Continuing the Preliminary-Injunction Hearing

On November 9, 2023, the parties met and conferred regarding an agreed extension of the Court’s temporary restraining order and an agreed continuance of the preliminary-injunction hearing. Counsel for Defendants did not agree to the requested relief, and Plaintiff therefore indicates Defendants’ opposition to the relief requested here.

/s/ Griffin S. Rubin

Griffin S. Rubin